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TECHNOLOGY CENTER 3600

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One Metropolitan Square
St. Louis MO 63102

In re Application of
Ronald R. Morlen
Application No. 10/661,981
Filed: September 12, 2003
For: FISHING LURE

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: DECISION ON PETITION
:
: TO WITHDRAW THE
:
: HOLDING OF ABANDONMENT
:

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on August 18, 2005. there is no fee for this petition.

The petition is **DISMISSED**.

A review of the file record reveals that the application became abandoned for failure to respond to the Office action (Final rejection) mailed to applicant on December 17, 2004. A Notice of Abandonment was mailed on July 22, 2005.

Applicant's petition indicates that the Office action was never received. In support thereof applicant has provided a statement that the Office action was not received, a statement that the file jacket and docket records have been examined and do not contain the Final Office Action dated January 17, 2005, and a copy of the Armstrong Teasdale docket report.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date at and around March 17, 2005.** See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirements (2) and (3) indicated above. In regards to requirement (2), petitioner has inadvertently misidentified the mailing date of the Office Action in question. In regards to requirement (3), a complete docket record with a copy of the list of all responses in the practitioner's office with the due date at and around March 17, 2005 is required.

Petitioner's evidence of non-receipt of the Office action mailed December 17, 2004 is insufficient to withdraw the holding of abandonment, and the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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KJD/rjc 10/15/05